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LETTER DATED 9 MAY 1995 FROM THE DEPUTY PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to forward herewith the 1994 report of the activities of the United Nations Command (UNC), prepared by the Commander-in-Chief, United Nations Command. The report is submitted in accordance with Security Council resolution 84 (1950) of 7 July 1950, and updates the last report submitted to the Security Council on 15 June 1994 (S/1994/713 and Add.1).

I would be grateful if you could kindly arrange to have this report circulated as a document of the Security Council.

(Signed) Edward W. GNEHM
Deputy Permanent Representative

Annex

Report of the activities of the United Nations Command for 1994

I. UNITED NATIONS COMMAND AND ITS MISSION

1. Security Council resolution 82 (1950) of 25 June 1950 determined that the armed attack upon the Republic of Korea by forces of the Democratic People's Republic of Korea constituted a breach of the peace and called for an immediate cessation of hostilities. It further called upon the authorities of the Democratic People's Republic of Korea to recall forthwith their armed forces to North Korea. Security Council resolution 83 (1950) of 27 June 1950, having noted that the authorities of the Democratic People's Republic of Korea had neither ceased hostilities nor withdrawn their armed forces north of the 38th parallel, recommended that the Members of the United Nations furnish such assistance to the Republic of Korea as would be necessary to repel the armed attack and restore international peace and security in the area. Based on Chapter VII of the Charter of the United Nations, Security Council resolution 84 (1950) of 7 July 1950 recommended that all United Nations Member States make military forces and other assistance available to a unified command; requested that the United States of America designate a commander for the unified command; and directed the unified command to provide the Security Council with reports, as appropriate, on the course of action taken under the unified command.

2. While looking at events within the constraints of an annual period imposes some artificiality, the present report provides a synopsis of the events of 1994 and attempts to convey objectively the impact of those events upon the efforts of the United Nations Command in maintaining the Korean Armistice Agreement. 1/

3. The authority granted to the United Nations Command by the Security Council also included the authority to negotiate a military armistice to end the fighting, on a basis consistent with United Nations objectives and principles. The Commander-in-Chief, United Nations Command (CINCUNC) signed the Korean Armistice Agreement on 27 July 1953, on behalf of all the forces of the 16 participating States Members of the United Nations and those of the Republic of Korea, which had also fought under the flag of the United Nations. This Armistice Agreement, a military agreement between the opposing military commanders, was intended to stop the Korean conflict and ensure a complete cessation of hostilities. Further, it was intended to make possible a final peaceful settlement and assumed that that end would, in good faith, be pursued. General Assembly resolution 811 (IX) of 11 December 1954 noted paragraph 62 of the Armistice Agreement of 27 July 1953, which provides that the Agreement "shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement for a peaceful settlement at a political level between both sides". Resolution 811 (IX) also reaffirmed that the objectives of the United Nations remain the achievement by peaceful means of a unified, independent and democratic Korea and the full restoration of international peace and security in the area. Pursuant to paragraph 17 of the Armistice Agreement, all CINCUNC successors in command are responsible for compliance with, and enforcement of, the terms and provisions of the Armistice Agreement. Today, the United Nations Command

continues to carry out its functions and fulfil its obligations under the mandate of the Armistice Agreement, and will continue this mission until a durable peace is achieved through political dialogue by the parties directly concerned with the Korean conflict. Of the original 16 States Members of the United Nations that provided military forces to the United Nations Command during the Korean war, 9 nations are represented today. They are Australia, Canada, Colombia, France, New Zealand, the Philippines, Thailand, the United Kingdom of Great Britain and Northern Ireland and the United States.

II. ARMISTICE MECHANISM AND PROCEDURES

4. The Armistice Agreement is the only legal regime for maintaining the cease-fire in Korea and affects the actions of both sides in the conflict. It must be preserved until a more durable peace is achieved. The Armistice Agreement provisions are military in character, and pertain solely to the belligerents in Korea. CINCUNC signed the Armistice Agreement on behalf of all military forces under the unified command, and the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers signed the agreement on behalf of the Communist forces. It is the responsibility of the opposing military commanders to enforce the cease-fire by all forces in Korea and establish "measures and procedures" to ensure compliance. In this connection, the opposing military commanders must maintain effective communications to preclude possible incidents and de-escalate the situation in the event that incidents occur.

A. Military Armistice Commission

5. The Military Armistice Commission (MAC) was established by the Armistice Agreement "to supervise the implementation of this Armistice Agreement and to settle through negotiations any violations of this Armistice Agreement". MAC was created as a joint organization without a chairman, composed of 10 military members: 5 senior officers from the United Nations Command and 5 senior officers from the Korean People's Army/Chinese People's Volunteers. In accordance with paragraph 20 of the Armistice Agreement, CINCUNC appoints five senior officers, historically drawn from the Republic of Korea, the United States, the United Kingdom and other States Members of the United Nations still represented in the United Nations Command. MAC meetings may be held at the request of either side in the joint security area, more commonly known as Panmunjom, in the Korean demilitarized zone (DMZ). On 28 April 1994, however, the Korean People's Army MAC Secretary announced that the Korean People's Army would cease participation in all MAC activities.

6. The Armistice Agreement of 1953 empowered each side to appoint a Secretary, an Assistant Secretary and other special assistants, as required, to perform functions in support of MAC. Under the Armistice Agreement, the United Nations Command and the Korean People's Army/Chinese People's Volunteers MAC Secretaries are authorized to conduct their own meetings as required, which normally serve as the basic channel of communications between the two sides.

7. The Joint Duty Office under the MAC secretariat, located in the joint security area, maintains 24-hour telephone communications between the two sides. Until March 1994, the joint duty officers normally also met as required. On 29 March 1994, however, the Korean People's Army refused to attend a formal joint duty officers' meeting called by the United Nations Command to approve the credentials of Brigadier Colin D. Parr, Commonwealth Member, United Nations Command MAC.

8. On 28 April 1994, the Korean People's Army MAC Secretary delivered a message to the United Nations Command, which stated that the Korean People's Army had decided to recall all remaining Korean People's Army MAC members and MAC staff personnel, would cease participation in MAC activities and would no longer recognize the United Nations Command MAC as a counterpart. Further, the Korean People's Army announced its intention to withdraw the Polish delegation to the Neutral Nations Supervisory Commission (NNSC) and its intention to send a "new team" appointed by its Supreme Commander to contact the "United States military" to discuss pending military issues, including a new "durable peace-ensuring system" to replace MAC.

9. The following day, 29 April 1994, the Korean People's Army prevented Chinese People's Volunteers staff officers from attending a language officers' meeting with United Nations Command staff officers. That evening, the Korean People's Army temporarily reinforced its portion of the joint security area. The Armistice Agreement specifies that each side may have no more than 5 officers and 30 enlisted personnel in the joint security area to provide security. The arms permitted these personnel are limited to one pistol or one single-shot rifle per person. United Nations Command Security Force personnel observed approximately 80 Korean People's Army guards in the joint security area. Rather than the usual pistols and soft caps, many were equipped with load-bearing equipment and helmets. Approximately 20 were armed with AK-47 automatic rifles. This incident constituted a major violation of the Armistice Agreement.

10. On 6 May 1994, the United Nations Command MAC Secretary replied to the 28 April Korean People's Army message. The United Nations Command rejected the Korean People's Army attempt to dismantle the MAC and NNSC unilaterally, but welcomed the Korean People's Army verbal confirmation of its commitment to maintain the cease-fire provisions of the Armistice Agreement. The Korean People's Army Secretary responded that the United Nations Command's rejection would not change that side's decision and that it had already notified the Polish delegation to NNSC to withdraw from North Korea. The Korean People's Army further threatened to terminate contact and communication at Panmunjom if the United Nations Command refused to meet with the new representatives of the Korean People's Army Supreme Command. The Korean People's Army Secretary concluded, however, by reaffirming that the Korean People's Army would abide by all non-MAC related provisions of the Armistice Agreement.

11. During a meeting requested by the United Nations Command for 1 September 1994, United Nations Command MAC representatives presented the credentials of Colonel Mark R. Shoemaker, incoming Secretary for United Nations Command MAC, to the Korean People's Army (see appendix I). The Korean People's Army representatives, however, rejected the credentials.

12. Also on 1 September 1994, the Foreign Ministry of China announced in Beijing it had decided to recall its delegation from MAC. This followed the example set earlier in the year by the Korean People's Army, when it withdrew its delegation to MAC on 28 April 1994. The CINCUNC, therefore, wrote to the Commander of the Chinese People's Volunteers in November 1994, to remind the Chinese of their responsibilities under the Armistice Agreement of 1953 (see appendix II). On 15 December 1994, however, the Chinese People's Volunteers delegation to MAC at Panmunjom left Pyongyang for Beijing. This joint United Nations Command-Korean People's Army/Chinese People's Volunteers commission has successfully overseen the Armistice since 1953; its dissolution could lead to an increase in minor incidents with the potential to escalate into a more serious situation.

13. MAC had also been authorized by paragraph 27 of the Armistice Agreement to dispatch joint United Nations Command-Korean People's Army/Chinese People's Volunteers observer teams to investigate reported violations of the Armistice Agreement occurring within the DMZ. The Korean People's Army has, however, frustrated this important investigative function by continuously refusing to participate in the investigations proposed by the United Nations Command. It has failed to participate in joint investigations of more than 170 serious incidents in the DMZ since April 1967. However, the United Nations Command continues to dispatch its observer teams into the United Nations Command portion of the DMZ to ensure that United Nations Command forces are in compliance with the Armistice Agreement, and is prepared to conduct unilateral investigations of alleged armistice violations reported to have occurred in the DMZ. United Nations Command liaison officers from the States Members of the United Nations still represented in the United Nations Command participate in these United Nations Command unilateral observer team activities in the DMZ. In 1994, despite numerous reports from the Korean Central News Agency to the contrary, the DMZ has remained quiet with no serious armistice violations observed by United Nations Command forces. Notwithstanding, the United Nations Command dispatched its joint observer teams to United Nations Command guard posts along the DMZ on 56 occasions in 1994 to supervise the implementation of the Armistice Agreement provisions pertaining to the DMZ.

B. Republic of Korea Senior Member

14. In accordance with paragraph 20 of the Korean Armistice Agreement, CINCUNC appointed Major General Hwang Won-tak, Army of the Republic of Korea, as the United Nations Command MAC Senior Member (spokesman), effective 25 March 1991. The United Nations Command component of MAC subsequently attempted to approve credentials for Major General Hwang as the new Senior Member, United Nations Command MAC. The Korean People's Army joint duty officer rejected the credentials, saying "the South Korean Army is neither a signatory to the Armistice Agreement, nor a member of the United Nations Command, and cannot represent the whole armed forces now in South Korea. I have been instructed not to receive the credentials."

15. This North Korean argument is, however, flawed. CINCUNC signed the Armistice Agreement as Commander of all United Nations Command forces, from 16 States Members of the United Nations and the Republic of Korea. Neither

individual nations, nor their military forces, are signatories to the Armistice Agreement. During the Armistice negotiations and subsequent to the signing of the Agreement, the Korean People's Army/Chinese People's Volunteers specifically requested that the Republic of Korea furnish assurances that its forces would abide by the terms of the Agreement, saying that the Korean Armistice would not work unless the Republic of Korea abided by the Agreement. The United Nations Command relayed such assurances to the Korean People's Army/Chinese People's Volunteers.

16. Today, the Republic of Korea provides "DMZ police" throughout the entire United Nations Command (southern) portion of the DMZ to maintain the Armistice. In addition, Republic of Korea senior military officers have regularly served as MAC members for the past 41 years. The Armistice Agreement neither addresses MAC membership by nationality nor by United Nations affiliation, nor does it give guidelines for designating a senior member. Each side has discretionary authority to appoint its members and such appointments are not subject to approval by the other side. Further, the appointment of a Republic of Korea general officer as the United Nations Command MAC Senior Member does not transfer CINCUNC's Armistice-maintenance responsibilities to the Republic of Korea armed forces or the Republic of Korea Government. In addition, as a signatory to the Armistice Agreement, CINCUNC is ultimately responsible for ensuring that all United Nations Command forces comply with its provisions.

17. Article 5 of the "Agreement on reconciliation, non-aggression and exchanges and cooperation between the South and the North", effective 19 February 1992, stipulates, "The two sides (North and South Korea) shall endeavour together to transform the present state of armistice into a solid state of peace between the South and North and shall abide by the present Military Armistice Agreement (of 27 July 1953) until such a state of peace has been realized." Thus, the Armistice Agreement remains the only legal regime until it is replaced by a more durable peace. The Supreme Commander of the Korean People's Army has an obligation to respect the terms of the Agreement signed in 1953, recognize the Republic of Korea Senior Member, send representatives to plenary MAC meetings to discuss Armistice-related issues, to include tension-reduction and confidence-building measures, and help to promote peace and stability on the Korean peninsula. The joint United Nations Command-Korean People's Army/Chinese People's Volunteers MAC is an integral part of the Korean Armistice Agreement. Although formal plenary MAC meetings have not been held since the 459th MAC meeting on 13 February 1991, the Joint Duty Office telephone line in Panmunjom is used by both sides. Further, the United Nations Command MAC Secretary continues to meet with his "counterpart" Korean People's Army representative at Panmunjom to discuss Armistice-related issues and act as an intermediary in transmitting communications between the commanders of the opposing sides.

C. Neutral Nations Supervisory Commission

18. NNSC was established in accordance with paragraph 37 of the Armistice Agreement, and was originally composed of four senior officers, two appointed by "neutral nations" nominated by the CINCUNC, namely Sweden and Switzerland, and two appointed by "neutral nations" nominated by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers,

namely Poland and Czechoslovakia. The term "neutral nations" in the Armistice Agreement is defined as nations whose combatant forces did not participate in the Korean conflict. NNSC's primary function is to conduct independent inspections and investigations of Armistice Agreement violations outside the DMZ and to report its findings to MAC.

19. The Korean People's Army/Chinese People's Volunteers reluctantly agreed to an inspection system proposed by the United Nations Command. They have, however, undermined the NNSC function since the signing of the Armistice Agreement by shipping into North Korea reinforcing modern weapons and equipment, completely bypassing the designated ports of entry, in violation of paragraph 13 (d) of the Armistice Agreement.

20. Since March 1991, the Korean People's Army not only suspended MAC plenary sessions and MAC senior member-level communications, but also suspended its reports to MAC and NNSC on paragraphs 13 (c) and 13 (d) of the Armistice Agreement, which prohibit the introduction into Korea of reinforcing arms and military personnel.

21. On 10 April 1993, the Democratic Peoples Republic of Korea forced the Czech delegation to NNSC to withdraw from the north, following the split of Czechoslovakia into two separate States in January 1993. Further, the Korean People's Army pressured the Polish NNSC delegation to initiate withdrawal, terminated protocol contacts and harassed this delegation to make its life difficult. To emphasize support for NNSC, CINCUNC wrote to the remaining members of the Commission on 30 December 1993, asking for their continued engagement on the Korean peninsula (see appendix III). In November 1994, the Democratic People's Republic of Korea officially informed the Ministry of Foreign Affairs of Poland that Poland's nomination as a member of NNSC had been terminated. The Korean People's Army seeks to end the NNSC arrangement as well as MAC, and thus is chipping away at the basic foundation of the armistice architecture. These North Korean attempts, contrary to the letter and spirit of the Armistice Agreement, must be opposed by the international community in order to preserve and maintain the existing armistice until it is replaced by a more durable peace. The United Nations Command has continued to call upon the Korean People's Army to nominate a successor for Czechoslovakia so that NNSC may continue to function. This the Korean People's Army has not done. Although NNSC activities have been curtailed over the years, the presence of "neutral" representatives provides a stabilizing influence on the activities of the opposing sides. The United Nations Command believes, therefore, that NNSC continues to be an integral part of the Korean armistice and will keep the Security Council informed of further developments on this issue in future reports.

D. United Nations Command remains issue

22. The Korean People's Army began unilaterally repatriating United Nations Command Korean war remains to the United Nations Command in 1990. Beginning in August 1992, the MAC Secretaries began a series of discussions on a memorandum of agreement dealing with the humanitarian recovery and repatriation of United Nations Command Korean war remains, which culminated in the signing of an

agreement on remains-related matters on 24 August 1993 (see appendix IV). The Korean People's Army has since returned 145 additional sets of United Nations Command Korean war remains in five repatriations from 30 November 1993 to 13 September 1994, bringing the total number of sets returned to the United Nations Command to 208. The agreement on remains-related matters has become the foundation for regularizing cooperation on remains-recovery operations and organizing the Korean People's Army-United Nations Command Remains Working Group, whose mission is to locate, exhume, repatriate and identify the remains of United Nations Command personnel located north of the military demarcation line. Throughout these repatriations, identifications of remains has been a significant problem. On 1 February 1994, the first set of repatriated remains was positively identified by the United States Army Central Identification Laboratory, Hawaii. The improved forensic condition of recently returned remains resulted in three additional positive identifications, announced on 14 December 1994. Further, the Central Identification Laboratory has determined that all of the remains returned to United Nations Command control are human remains. Previous unsubstantiated reports that have appeared in various media claimed that animal bones were mixed with the human remains. Although there have been occasions when the remains of more than one person were returned by the Korean People's Army in the same casket, the reports of animal bones are inaccurate.

E. Crossings of the military demarcation line

23. Following the crossing of the military demarcation line by Secretary-General Boutros Boutros-Ghali on 24 December 1993, Panmunjom has been the site of several events that have helped to reduce tensions between the United Nations Command and the Korean People's Army.

24. On 1 February 1994, the United Nations Command returned two Korean People's Army soldiers to Korean People's Army control after they were inadvertently washed out to sea and subsequently rescued by the Republic of Korea Navy.

25. On 15 June 1994, former United States President and Mrs. Jimmy Carter crossed the military demarcation line into the north. They returned three days later, having met with the late President Kim Il-Sung in Pyongyang.

26. On 7 November 1994, the President of the Republic of Korea announced that the Republic of Korea would lift its ban on business investment in the north. Although officially rebuffed by the north, the issue brought into question the role of MAC in authorizing transit of private citizens between the Democratic People's Republic of Korea and the Republic of Korea through Panmunjom. The United Nations Command position, as conveyed to the Republic of Korea Ministry of National Defense, was that only with the prior approval of both the Korean People's Army/Chinese People's Volunteers and the United Nations Command MAC could such crossings be authorized. During the current armistice period, the preferred method of travel for businessmen between the north and south is through a third country.

27. On 12 December 1994, United States Senators Paul Simon and Frank Murkowski crossed the military demarcation line into the south, following a visit to

Pyongyang, which included the first planned landing of a United States military aircraft in the Democratic People's Republic of Korea since the signing of the armistice.

28. On 22 December 1994, the Korean People's Army returned the remains of Chief Warrant Officer David Hilemon, United States Army, one of two United Nations Command personnel brought down by Korean People's Army anti-aircraft fire when their helicopter mistakenly crossed the military demarcation line and entered Democratic People's Republic of Korea airspace during a routine training mission. United States Representative in Congress Bill Richardson, who had just concluded a visit to Pyongyang, accompanied the remains of Chief Warrant Officer Hilemon across the military demarcation line and into the Republic of Korea. Deputy Assistant Secretary of State Thomas Hubbard entered the Democratic People's Republic of Korea through Panmunjom on 28 December 1994. Following discussions with representatives of the Ministry of Foreign Affairs of the Democratic People's Republic of Korea, he returned to the Republic of Korea through Panmunjom on 30 December 1994, just prior to the release of Chief Warrant Officer Bobby W. Hall, the second crewman of the downed helicopter, to the United Nations Command.

III. NORTH-SOUTH RELATIONS

29. While the United Nations Command is not directly involved in the south-north dialogue or negotiations, it has provided administrative and security assistance to these talks and other contacts held in the joint security area, Panmunjom. The simultaneous entry of the Republic of Korea and the Democratic People's Republic of Korea into the United Nations in September 1991 affected neither the status nor the role of the United Nations Command. The United Nations Command continues to perform an important peace-enforcement role in Korea, particularly in maintaining the armistice until an effective and enduring peace is attained through political dialogue.

IV. CONCLUSIONS

30. The maintenance of timely and effective communications between the commanders of the opposing military forces is vital to preclude possible incidents and defuse the situation in the event that incidents occur, thereby preventing the resumption of hostilities. All parties to the Korean Armistice Agreement (the United Nations Command, the Korean People's Army and the Chinese People's Volunteers) have participated in this vital activity for more than 41 years. To continue this vital mission until a more durable peace is attained, both sides must fully cooperate to preserve the existing means of communication through the armistice mechanism, MAC, which is an integral part of the armistice. The United Nations Command will continue its efforts to implement the Armistice Agreement, and thereby contribute to a stable environment conducive to south-north dialogue and the ultimate goal of a durable peace on the Korean peninsula.

Notes

1/ *Official Records of the Security Council, Eighth Year, Supplement for July, August and September 1953*, document 3079.

Appendix I

Credentials of Incoming Secretary of the United Nations Command Military Armistice Commission

Colonel Mark R. Shoemaker, United States Army, is hereby accredited as Secretary of the United Nations Command component of the Military Armistice Commission replacing Colonel Forrest S. Chilton IV, United States Army, effective this date.

(Signed) Gary E. LUCK
General, United States Army
Commander in Chief

Appendix II

Letter dated 30 November 1994 from the Commander in Chief, United Nations Command, addressed to the Commander, Chinese People's Volunteers

Although I have received no formal communication from you on this matter, I am aware that a decision has been made to recall the Chinese People's Volunteers from the Military Armistice Commission. I find this decision troubling for several reasons.

In the absence of a permanent peaceful settlement between the north and the south, the successors to General Peng Teh-Huai, Marshal Kim Il-Sung and General Mark W. Clark continue to share an obligation to uphold the 1953 Korean Armistice Agreement. Your visible support is a fundamental part of this important obligation. The presence of your delegation at Panmunjom is a powerful and significant symbol. It demonstrates your support for the Armistice Agreement, a system that has successfully prevented the resumption of hostilities on the Korean peninsula - and in this region - for 41 years. Further, your personnel at the Panmunjom conference site provide a moderating influence, and help to mitigate the hostile atmosphere which, as history has shown, can quickly escalate with tragic consequences.

The Korean People's Army has indicated to us a desire to amend the armistice. We have responded that any negotiations to revise the Armistice Agreement should include representation of the Chinese People's Volunteers, and that any changes to the Armistice Agreement must be agreed upon between the three signatories.

Today, there is no substantive progress being made in north-south military reconciliation. Meanwhile, the Korean People's Army maintains an overly large, offensively postured force near the Korean demilitarized zone. Under these circumstances, I view the recall of the representatives of the Chinese People's Volunteers as a destabilizing act - one that contributes nothing towards the fulfilment of our shared responsibility to maintain the peace in Korea. In my view, our job here is not finished. I shall look forward to your reply.

(Signed) Gary E. LUCK
General, United States Army
Commander in Chief

Appendix III

Letter dated 30 December 1973 from the Commander in Chief, United Nations Command, addressed to the Neutral Nations Supervisory Commission

During the past 40 years, NNSC has played an important role in maintaining the Korean armistice and facilitating peace on the Korean peninsula. NNSC constitutes an integral part of the Korean armistice system.

Today, when the eyes of the world have become more focused on the Korean peninsula, the NNSC presence remains as vital as ever. Your dedication and commitment are symbolic of international support for the Armistice Agreement.

As events continue to unfold in this region, the United Nations Command will look to you to provide a sustained level of engagement on the Korean peninsula, providing the critical neutral pillar of the armistice system.

(Signed) Gary E. LUCK
General, United States Army
Commander in Chief

Appendix IV

Agreement on remains-related matters of 24 August 1993

The Korean People's Army and the United Nations Command recognize the importance, for humanitarian reasons, of full and regular cooperation for the recovery, repatriation, and identification of United Nations Command war remains located north of the military demarcation line. Therefore, both sides agree as follows:

1. Both sides shall cooperate with each other in locating, exhuming, repatriating and identifying the remains of United Nations Command personnel located north of the military demarcation line.

2. The Korean People's Army will search for and exhume the remains of United Nations Command soldiers buried north of the military demarcation line and repatriate those remains to the United Nations Command.

3. The United Nations Command will render support, as necessary, to aid the Korean People's Army's search, exhumation and repatriation efforts.

4. Both sides agree to actively exploit all available information in the search, exhumation and repatriation effort. Both sides will exercise the necessary scientific care in exhuming, repatriating and handling remains to ensure a reasonable chance of identification.

5. To achieve the objectives of this agreement, both sides agree to form a working group to exchange information and coordinate remains recovery, repatriation and identification efforts. This working group will be chaired by colonel-level representatives from each side and will consist of seven regular members from each side. Technical specialists and observers can participate in working group activities as required by each side. Each side will determine its own working group membership, specialists and observers. Working group operating procedures will be determined jointly by the chairmen of each side.

6. Both sides will continually assess the progress made towards achieving the objectives of this agreement. If significant progress is not being achieved, both sides will consider additional measures to enhance the effectiveness of this agreement.

7. This agreement will become effective upon its signing by both sides. The working group established by this agreement will begin operation within 30 days of the effective date.

(Signed) Nels RUNNING
Major General, United States Air Force
United Nations Command Representative

(Signed) LI Dok Kyu
Major General, Korean People's Army
Korean People's Army Representative

Appendix V

PERTINENT PROVISIONS OF THE ARMISTICE AGREEMENT

ARTICLE II

CONCRETE ARRANGEMENTS FOR CEASE-FIRE AND ARMISTICE

A. GENERAL

Paragraph 12: The Commanders of the opposing sides shall order and enforce a complete cessation of all hostilities in Korea by all armed forces under their control, including all units and personnel of the ground, naval, and air forces, effective twelve (12) hours after this Armistice Agreement is signed. (See Paragraph 63 hereof for the effective date and hour of the remaining provisions of this Armistice Agreement.)

Paragraph 13d: Cease the introduction into Korea of reinforcing combat aircraft, armoured vehicles, weapons, and ammunition, provided, however, that combat aircraft, armoured vehicles, weapons, and ammunition which are destroyed, damaged, worn out, or used up during the period of the armistice may be replaced on the basis of piece-for-piece of the same effectiveness and the same type. Such combat aircraft, armoured vehicles, weapons, and ammunition shall be introduced into Korea only through the ports of entry enumerated in Paragraph 43 hereof. In order to justify the requirement for combat aircraft, armoured vehicles, weapons, and ammunition to be introduced into Korea for replacement purposes, reports concerning every incoming shipment of these items shall be made to the Military Armistice Commission and the Neutral Nations Supervisory Commission; such reports shall include statements regarding the disposition of the items being replaced. Items to be replaced which are removed from Korea shall be removed only through the ports of entry enumerated in Paragraph 43 hereof. The Neutral Nations Supervisory Commission, through its Neutral Nations Inspection Teams, shall conduct supervision and inspection of the replacement of combat aircraft, armoured vehicles, weapons, and ammunition authorized above, at the ports of entry enumerated in Paragraph 43 hereof.

Paragraph 14: This Armistice Agreement shall apply to all opposing ground forces under the military control of either side, which ground forces shall respect the demilitarized zone and the area of Korea under the military control of the opposing side.

Paragraph 15: This Armistice Agreement shall apply to all opposing naval forces, which naval forces shall respect the waters contiguous to the Demilitarized Zone and to the land area of Korea under the military control of the opposing side, and shall not engage in blockade of any kind of Korea.

Paragraph 16: This Armistice Agreement shall apply to all opposing air forces, which air forces shall respect the air space over the Demilitarized Zone and over the area of Korea under the military control of the opposing side, and over the waters contiguous to both.

Paragraph 17: Responsibility for compliance with and enforcement of the terms and provisions of this Armistice Agreement is that of the signatories hereto and their successors in command. The Commanders of the opposing sides shall establish within their respective commands all measures and procedures necessary to ensure complete compliance with all of the provisions hereof by all elements of their commands. They shall actively cooperate with one another and with the Military Armistice Commission and the Neutral Nations Supervisory Commission in requiring observance of both the letter and the spirit of all of the provisions of this Armistice Agreement.

B. MILITARY ARMISTICE COMMISSION

1. COMPOSITION

Paragraph 19: A Military Armistice Commission is hereby established.

Paragraph 20: The Military Armistice Commission shall be composed of ten (10) senior officers, five (5) of whom shall be appointed by the Commander-in-Chief, United Nations Command, and five (5) of whom shall be appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Of the ten members, three (3) from each side shall be of general or flag rank. The two (2) remaining members on each side may be major generals, brigadier generals, colonels, or their equivalents.

Paragraph 22: The Military Armistice Commission shall be provided with the necessary administrative personnel to establish a Secretariat charged with assisting the Commission by performing record-keeping, secretarial, interpreting, and such other functions as the Commission may assign to it. Each side shall appoint to the Secretariat a Secretary and an Assistant Secretary and such clerical and specialized personnel as required by the Secretariat. Records shall be kept in English, Korean, and Chinese, all of which shall be equally authentic.

Paragraph 24: The general mission of the Military Armistice Commission shall be to supervise the implementation of this Armistice Agreement and to settle through negotiations any violations of this Armistice Agreement.

Paragraph 25: The Military Armistice Commission shall:

a. Locate its headquarters in the vicinity of PANMUNJOM (37 57'29"N, 126 40'00"E). The Military Armistice Commission may re-locate its headquarters at another point within the Demilitarized Zone by agreement of the senior members of both sides on the Commission.

b. Operate as a joint organization without a chairman.

c. Adopt such rules of procedure as it may, from time to time, deem necessary.

d. Supervise the carrying out of the provisions of this Armistice Agreement pertaining to the Demilitarized Zone and to the Han River Estuary.

e. Direct the operations of the Joint Observer Teams.

f. Settle through negotiations any violations of this Armistice Agreement.

g. Transmit immediately to the Commanders of the opposing sides all reports of investigations of violations of this Armistice Agreement and all other reports and records of proceedings received from the Neutral Nations Supervisory Commission.

h. Give general supervision and direction to the activities of the Committee for Repatriation of Prisoners of War and the Committee for Assisting the Return of Displaced Civilians, hereinafter established.

i. Act as an intermediary in transmitting communications between the Commanders of the opposing sides; provided, however, that the foregoing shall not be construed to preclude the Commanders of both sides from communicating with each other by any other means which they may desire to employ.

j. Provide credentials and distinctive insignia for its staff and its Joint Observer Teams, and a distinctive marking for all vehicles, aircraft, and vessels, used in the performance of its mission.

Paragraph 26: The mission of the Joint Observer Teams shall be to assist the Military Armistice Commission in supervising the carrying out of the provisions of this Armistice Agreement pertaining to the Demilitarized Zone and to the Han River Estuary.

Paragraph 27: The Military Armistice Commission, or the senior member of either side thereof, is authorized to dispatch Joint Observer Teams to investigate violations of this Armistice Agreement reported to have occurred in the Demilitarized Zone or in the Han River Estuary, provided, however, that not more than one half of the Joint Observer Teams which have not been dispatched by the Military Armistice Commission may be dispatched at any one time by the Senior Member of either side on the Commission.

Paragraph 28: The Military Armistice Commission, or the senior member of either side thereof, is authorized to request the Neutral Nations Supervisory Commission to conduct special observations and inspections at places outside the Demilitarized Zone where violations of this Armistice Agreement have been reported to have occurred.

Paragraph 29: When the Military Armistice Commission determines that a violation of this Armistice Agreement has occurred, it shall immediately report such violation to the Commanders of the opposing sides.

Paragraph 30: When the Military Armistice Commission determines that a violation of this Armistice Agreement has been corrected to its satisfaction, it shall so report to the Commanders of the opposing sides.

Paragraph 31: The Military Armistice Commission shall meet daily. Recesses of not to exceed seven (7) days may be agreed upon by the senior

members of both sides; provided, that such recesses may be terminated on twenty-four (24) hour notice by the senior member of either side.

Paragraph 35: The Military Armistice Commission may make recommendations to the Commanders of the opposing sides with respect to amendments or additions to this Armistice Agreement. Such recommended changes should generally be those designed to insure a more effective armistice.

C. NEUTRAL NATIONS SUPERVISORY COMMISSION

Paragraph 37: The Neutral Nations Supervisory Commission shall be composed of four (4) senior officers, two (2) of whom shall be appointed by neutral nations nominated by the Commander-in-Chief, United Nations Command, namely, Sweden and Switzerland, and two (2) of whom shall be appointed by neutral nations nominated jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, namely, Poland and Czechoslovakia. The term "neutral nations" as herein used is defined as those nations whose combatant forces have not participated in the hostilities in Korea. Members appointed to the Commission may be from the armed forces of the appointing nations. Each member shall designate an alternate member to attend those meetings which for any reason the principal member is unable to attend. Such alternate members shall be of the same nationality as their principals. The Neutral Nations Supervisory Commission may take action whenever the number of members present from the neutral nations nominated by one side is equal to the number of members present from the neutral nations nominated by the other side.

ARTICLE V

MISCELLANEOUS

Paragraph 61: Amendments and additions to this Armistice Agreement must be mutually agreed to by the Commanders of the opposing sides.

Paragraph 62: The Articles and Paragraphs of this Armistice Agreement shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement for a peaceful settlement at a political level between both sides.

UNITED NATIONS **S**

Security Council

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LETTER DATED 9 MAY 1995 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit herewith a letter dated 9 May 1995 from Mr. Hamid Yousif Hamadi, Acting Minister for Foreign Affairs of the Republic of Iraq, concerning the influx of Turkish refugees into Iraqi territory.

I should be grateful if you would have my letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

95-14053 (E) 110595 110595 120595

/...

Annex

Letter dated 9 May 1995 from the Acting Minister for Foreign Affairs of Iraq addressed to the Secretary-General

As you know, the Turkish invasion of northern Iraq is still continuing, and, since the entry of Turkish forces into Iraqi territory on 20 March 1995, the international Organization has not made any move, in spite of widespread international condemnation of this invasion.

There can be no doubt that the Turkish invasion constitutes a grave breach of the Charter of the United Nations. The subjection of innocent Iraqi citizens to slaughter and plunder, resulting in an influx of large numbers of Turkish citizens seeking refuge in Iraqi territory, constitutes a gross violation of the provisions of the Charter of the United Nations, international humanitarian law and human rights principles.

These grave violations of the most basic rules of international law should have prompted the United Nations to assume its responsibilities under the Charter and to adopt appropriate resolutions and measures to put an end to them.

For the aforementioned reasons, the silence of the United Nations illustrates, once again, its policy of double standards, not only in the treatment of international political issues but also in the treatment of humanitarian questions. This is a grave matter, because this policy deprives the United Nations of its credibility and its ability to defend the principles of the Charter, international humanitarian law and human rights in a just, equitable and impartial way.

You are aware of the circumstances that caused many Iraqi citizens to flee across the borders in 1991 for reasons unrelated to the will of the Iraqi Government. In spite of this, the United Nations adopted resolutions and took measures, on the pretext of defending human rights, with the aim of blackening the international reputation of Iraq and in order to accommodate a number of major Powers that were trying to exploit human rights principles to realize their evil political aims against Iraq and to threaten its sovereignty, independence and national unity. The recklessness of these rapacious States brought them to such an advanced degree of hypocrisy that they considered the flight of a few thousand Iraqi Kurds into Turkish territory a matter threatening world peace and security. However, those same hypocritical States remain silent regarding the tragedy of thousands of Turkish Kurds who have been forced to leave their homes and seek refuge in Iraq as a means of escaping repression by the Turkish forces, and their flight is not regarded as a threat to security and stability in the region or the world.

Those hypocritical Governments have posed, with regard to the United Nations and the Security Council, the very real question of whether the Organization has become a tool in the hands of those hypocritical Governments.

I should be grateful if you would have my letter circulated as a document of the Security Council.

(Signed) Hamid Yousif HAMADI
Acting Minister for Foreign
Affairs of the Republic of Iraq